



# **“NHS Wales Shared Services Partnership”**

(On behalf of Velindre NHS Trust)

## **Special Leave Policy**

**Approved by:** Welsh Partnership Forum

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## 1. Policy Statement

NWSSP (on behalf of Velindre NHS Trust) is committed to providing health care services which are of high quality, safe, effective and efficient. The contribution of NHS staff in the delivery of excellent care is recognised. 'Working Differently, Working Together' (Welsh Government 2012) sets out a framework that aims to support and engage staff in delivering excellent care and acknowledges the importance of a healthy and valued workforce. It believes that to promote a culture of care for patients, carers and the public we must also create a culture of care for all staff.

NWSSP (on behalf of Velindre NHS Trust) is committed to encouraging the health and well being of all its staff and recognises that staff act as role models to the community they serve in promoting and preventing ill health.

It believes that it is the joint responsibility of managers and individual employees to work together to encourage healthier lifestyles and life choices, support each other in the work place, and promote attendance at work as far as possible.

NWSSP (on behalf of Velindre NHS Trust) also recognises that employees need to be able to balance the demands of domestic and work responsibilities at times of urgent and unforeseen need.

NWSSP (on behalf of Velindre NHS Trust) also recognises its role in the community, and its legal obligations under the Employment Act 2002, the Employment Rights Act 1996, and Section 33 'Caring for Children and Adults' and section 35 'Balancing Work and Personal Life', of the NHS Terms and Conditions of Service Handbook and the former Whitley Council regulations to enable employees to take part in essential civic and public duties.

NWSSP (on behalf of Velindre NHS Trust) supports its employees, at times of urgent and unforeseen need, by consideration of the provision of additional leave according to circumstance.

The situations that this policy is intended to deal with are:

- Emergency carers and dependant leave
- Unexpected crisis leave
- Bereavement leave

**Leave granted under this policy is not intended for long term domestic and family situations, which may be provided for in other ways, e.g. annual leave, unpaid leave, reduced working hours etc.**

The policy will also consider the awarding of reasonable time off to staff to enable them to undertake civil and public duties requiring them to be away from the workplace in the following circumstances:

- Time off for public duties
- Jury service
- Reserve and cadet forces
- Attending job interviews

(This list is not exhaustive)

## **2. Introduction**

This policy sets out the approach of the NWSSP (on behalf of Velindre NHS Trust) to special leave and the procedure for dealing with applications for leave.

This policy is intended to ensure that the NWSSP (on behalf of Velindre NHS Trust) complies with section 57A of the Employment Rights Act 1996, as amended by the Employment Relations Act 1999, which came into effect on 15<sup>th</sup> December 1999. These regulations provide a right for employees to request a reasonable amount of time off work to deal with unexpected or sudden emergencies and to make any necessary long-term arrangements; together with section 50 of the Employment Rights Act 1996, these regulations ensure that employees are allowed reasonable time off work to perform certain public duties.

In line with the Equality Act 2010, the NWSSP (on behalf of Velindre NHS Trust) is committed to implementing the policy in a way which promotes the fair and equal treatment of all employees and eliminates discrimination on the grounds of race, disability, gender, gender reassignment, age, sexual orientation, religion and belief, language and human rights. It is the responsibility of managers and employees to ensure that they implement this policy/procedure in a manner that recognises and respects the diversity of the workforce and the different needs of all employees.

NWSSP (on behalf of Velindre NHS Trust) recognises the right of all employees subject to this policy to be treated fairly and with dignity and respect.

NWSSP (on behalf of Velindre NHS Trust) also recognises it has a legal duty to make any reasonable adjustments to the workplace, or to the way work is done, to ensure that a disabled employee is not substantially disadvantaged.

NWSSP (on behalf of Velindre NHS Trust) attaches considerable importance to assisting employees in balancing the responsibilities of their work with their domestic and family responsibilities. It is recognised that in the majority of instances these commitments can be planned and are therefore outside of the remit of this policy.

Special Leave is not an entitlement; however, requests for special leave will be considered sympathetically in the light of individual circumstances and may be granted at the discretion of the NWSSP (on behalf of Velindre NHS Trust). It is important for employees

to consider the needs of the NWSSP (on behalf of Velindre NHS Trust) and to make every effort to make alternative arrangements wherever possible.

### **3. Scope**

This policy applies equally to all employees and aims to give clear guidelines to employees and managers when dealing with requests for paid and/or unpaid special leave.

There is no minimum service requirement to make a request for special leave.

This policy recognises that there are 2 types of special leave; unforeseen/unplanned need for personal reasons; and time off to perform public duties. Section 7 of the policy looks at the differential between the two distinct types of leave in detail.

### **4. Principles**

Managers should interpret the policy in a flexible and caring way. Managers will wherever possible and appropriate seek to grant requests for special leave, within the scope of the policy, bearing in mind workplace demands.

Treating all employees in a trusting and respectful manner, at such times, is good management practice, which can bring positive long-term benefits to the employment relationship, between the manager and the employee.

Employees will need to openly discuss with their manager the reasons and circumstances that have led to their special leave request. There should be an acknowledgment by the employee that special leave may only be granted by the agreement of their manager, in consultation with their Workforce & OD department, if appropriate.

This policy includes the provision for staff to be granted a period of paid or unpaid leave, dependent upon the circumstances. It is also important to stress that it is not necessary for employees to use up their annual leave entitlement before they can apply for special leave.

All special leave must be applied for and granted consistently throughout the NWSSP (on behalf of Velindre NHS Trust) to ensure that inappropriate precedents are not set.

### **5. Responsibilities under the policy**

#### **5.1 Line Managers**

Line managers are responsible for

- ensuring that employees are aware of the policy

- all requests for paid and unpaid special leave are made on the relevant application form
- decisions about special leave requests are made on the basis of the employee's individual circumstances and are consistent with the policy
- monitor the usage of special leave and where refused identify what alternatives have been offered
- retaining relevant documentation within the employee's personal file
- ensuring notification of any period of paid or unpaid special leave to payroll, including completion of the Electronic Staff Record (ESR) on Self Service where available.
- maintaining regular contact where appropriate with individual staff members.
- offering/signposting counselling as appropriate.

## **5.2 Employees**

Employees are responsible for:

- ensuring they are familiar with this policy
- ensuring they have relevant and appropriate arrangements, including contingency arrangements to allow them to fulfil their contractual obligations
- ensuring all requests for paid and unpaid special leave are made using the relevant special leave application form, having been discussed with their line manager.

## **5.3 Workforce and OD Department**

The Workforce and OD department is responsible for:

- review on an annual basis with Heads of Service the number and percentage of special leave requests received, granted and refused to establish the consistency and application of the policy within their service area.

## **6. Definitions**

### **6.1 Definition of one week's paid leave**

One week means an employee's normal working week, so that if, for example, an employee works part-time over three days per week, they will be entitled to up to three days special leave.

### **6.2 Definition of paid leave**

The pay that an individual would normally have expected to receive for the shift(s) had they been in work.

## **6.3 Definition of Dependant**

A dependant is someone who is married to, is a civil partner, or a partner (whether opposite or same sex) “a near relative” or someone who lives at the same address as the employee. A relative for this purpose includes: children, parents, parents-in-law, adult children, adopted adult children, siblings (including those who are in-laws), uncles, aunts, grandparents and step relatives or is someone who relies on the employee in a particular emergency

## **7. Different types of Special Leave**

### **7.1 Unplanned/Times of unforeseen need**

#### **7.1.1 Emergency carers and dependant leave**

This enables employees to take action, which is necessary to deal with an unexpected or sudden problem concerning a dependant and to make necessary long-term arrangements e.g.:

- if a dependant falls ill, or has been injured or assaulted.
- to make longer term care arrangements for a dependant who is ill or injured
- to deal with an unexpected disruption or breakdown of care arrangements for a dependant
- to deal with an unexpected incident involving a child during school hours.

It should be noted that this does not include any situations, which are pre-planned or where the employee has prior knowledge of the arrangements. In these instances special leave will not apply and the expectations will be for the employee to make alternative arrangements such as requesting annual leave.

Usually no more than 3 days may be granted per episode, or no more than 6 days in any rolling 12 month period, as other types of leave such as annual leave, flexi leave, parental leave or unpaid leave (if applicable) may be taken for longer periods. As an alternative or in addition to the above, “home working” may be an option in some circumstances, as is unpaid leave.

#### **7.1.2 Unexpected crisis leave**

There may be times when employees may need to deal with situations not mentioned in the policy but are nevertheless considered important enough to affect the ability of the employee to attend work and which may be resolved by limited time off. An example of such a situation may be the need to deal with urgent unexpected house repairs, or following a burglary or flood. Usually no more than 1 day will be granted to deal with the initial crisis. This type of leave

is not meant for example to await delivery of a household item, or awaiting an engineer to call as these would not be regarded as emergencies.

### **7.1.3 Bereavement**

An employee will be allowed to take a reasonable amount of time off, for bereavement, in the following circumstances:

- Death of an immediate family member or partner. Normally from the day of death up to and including the day of the funeral and/or interment. (In some circumstances this may be a significant period of time and in these circumstances discussions will need to be held between the employee and manager in a sensitive manner about the amount of leave required).
- Death of extended family member. Normally the day of the funeral but, dependent upon the circumstances of each individual case.
- Death of close friends; normally unpaid leave or alternatively annual leave or flexi-leave should be taken wherever possible.

### **7.1.4 Medical Appointment**

Reasonable time off for medical and dental appointments is covered in the All Wales Sickness Absence Policy.

## **7.2 Planned Time Off**

### **7.2.1 Time off for public duties**

Individuals have the right to paid time off work for certain public duties and services. These rights will vary depending on the type of work, and what the duty or service is. When contemplating undertaking such roles, staff should discuss this with their line manager and together they should consider the likely impact this will have on their work attendance.

Individuals are allowed reasonable time off work for public duties if they are one of the following:

- a magistrate, sometimes known as a justice of the peace
- a local councillor
- a member of a police authority
- a member of any statutory tribunal (e.g. an Employment Tribunal, Fitness to practice hearings)
- a member of the managing or governing body of an educational establishment
- a member of the General Teaching Council for Wales
- a member of the Natural Resources Wales
- a member of the prison independent monitoring boards



Individuals will be allowed a reasonable amount of time off, and in exceptional circumstances up to 18 days pro rata in a twelve month period, to go to meetings or to carry out their duties in relation to the above public duties.

Individuals requesting time off for public duties need to discuss these arrangements with their line manager in a timely manner.

### **7.2.2 Job Interviews**

Requests for leave to attend job interviews within the NHS or Welsh Government's Health and Social Care Department will be given fair consideration. However, NWSSP (on behalf of Velindre NHS Trust) may insist that annual leave is taken to attend interviews outside of the NHS rather than special leave granted.

### **7.2.3 Jury Service/Court Witnesses**

Individuals will continue to be paid by the NWSSP (on behalf of Velindre NHS Trust) for any period of jury service or court attendance as a witness that they are required to undertake. The individual should discuss with their line manager whether or not they will continue to be paid as normal during the period of jury service, and consequently, whether they will need to make a loss of earnings claim to the Court.

Individuals should provide documentary evidence of the request for jury service/court attendance as a witness and discuss with their line manager in a timely manner.

Employees must be aware that if the court advises that they are not required for court service on any given day or if the court finishes early the employee must contact work and agree working arrangements for the period.

Alternative arrangements to cover this e.g. home working / annual leave may be agreed through discussion with their line manager.

### **7.2.4 Reserve and Cadet Forces**

Staff must discuss any proposal to join the Territorial Army (TA) or Reserve Forces with their manager in order to establish the likely time commitment required and seek their agreement before doing so.

Leave for annual camp and arrangements for "call up" are covered in the All Reserve Forces – Training and Mobilisation Policy (2013).

### 7.2.5 Fertility Treatments

It is recognised that infertility can cause considerable distress and NWSSP (on behalf of Velindre NHS Trust) is supportive of employees who may decide to undertake fertility treatment.

NWSSP (on behalf of Velindre NHS Trust) will provide limited paid leave for this purpose, where the request is supported by documentary evidence, from the employee's GP or consultant/specialist.

As fertility treatment can be a lengthy process, managers should discuss with the employee concerned, the likely duration of their treatment, together with the number of occasions and where possible dates, when they are likely to need time off work, to attend hospital for their fertility treatment appointments.

It should be noted that following implantation, in law the employee will be considered to be pregnant and as such should be treated as pregnant and the normal pregnancy provisions applied. Where an implantation is unsuccessful, the pregnancy will have deemed to have ended two weeks following the failed treatment.

NWSSP (on behalf of Velindre NHS Trust) will provide an employee who is to receive fertility treatment, with up to three days paid leave and a period of agreed unpaid special leave, in any rolling 12 month period.

Where an employee experiences side effects or ill health as a result of their fertility treatment, which renders them unfit for work, such absences must be reported, certified and recorded in accordance with the sickness absence policy.

### 7.2.6 Wales for Africa

Requests for leave to attend initiatives as part of the "Wales for Africa" programme will be given fair consideration where not covered in local policies.  
**For more information, visit**  
**[wales.gov.uk/topics/sustainabledevelopment/walesforafrica](http://wales.gov.uk/topics/sustainabledevelopment/walesforafrica)**

## 8. Appeals

An individual who considers the NWSSP (on behalf of Velindre NHS Trust) has failed to comply with the provisions described previously in this policy should refer to the appeal process within the NWSSP (on behalf of Velindre NHS Trust) Grievance Policy and Procedure.

## **9. Training and awareness**

All staff will be made aware of this policy upon commencement with the NWSSP (on behalf of Velindre NHS Trust). Copies can also be viewed on the NWSSP (on behalf of Velindre NHS Trust) Intranet or obtained via the Workforce and OD department and/or line manager.

## **10. Equality**

NWSSP (on behalf of Velindre NHS Trust) recognises and values the diversity of its workforce. Our aim is to provide a safe environment where all employees are treated fairly and equally and with dignity and respect. NWSSP (on behalf of Velindre NHS Trust) recognises that the promotion of equality and human rights is central to its work both as a provider of healthcare and as an employer. This policy has been impact assessed to ensure that it promotes equality and human rights.

## **11. Data Protection Act 1998**

All documents generated under this policy that relate to identifiable individuals are to be treated as confidential documents, in accordance with the NWSSP (on behalf of Velindre NHS Trust) Data Protection Policy.

## **12. Freedom of Information Act 2000**

All NWSSP (on behalf of Velindre NHS Trust) records and documents, apart from certain limited exemptions, can be subject to disclosure under the Freedom of Information Act 2000. Records and documents exempt from disclosure would, under most circumstances, include those relating to identifiable individuals arising in a personnel or staff development context. Details of the application of the Freedom of Information Act within the NWSSP (on behalf of Velindre NHS Trust) may be found in the NWSSP (on behalf of Velindre NHS Trust) publications scheme.

## **13. Records management**

All documents generated under this policy are official records of the NWSSP (on behalf of Velindre NHS Trust) and will be managed and stored and utilised in accordance with the NWSSP (on behalf of Velindre NHS Trust) Records Management Policy.

## **14. Monitoring**

An accurate record of all special leave requests should be maintained on the Electronic Staff Record (ESR), to enable the organisation to consider whether there any issues that may be contributing to unintended discrimination. This information must be capable of being disaggregated by each of the protected characteristics and routinely collected,

analysed and reported on to ensure that the process is fair and equitable for all individuals and groups, and to demonstrate that the NWSSP (on behalf of Velindre NHS Trust) is meeting its employment equality monitoring duties.

## 15. **Review**

This policy will be reviewed in two years time. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation or guidance.

Signed on behalf of the Staff Side

Signed:	
Name:	
Title:	
Date:	

Signed on behalf of the Management Side:

Signed:	
Name:	
Title:	
Date:	

## **Appendix A – Application for special leave**

<b>NWSSP (on behalf of Velindre NHS Trust)</b>	
<b>Application for special leave</b>	
<b>Personal Details</b>	
Full name:	
Employee number:	
Position:	
Organisation (Department):	
Work base:	
Contact telephone number:	
<b>Circumstances of leave</b>	
Emergency carers & dependant leave – Section 7.1.1 of policy (please give details)	
Unexpected crisis leave – Section 7.1.2 of policy (please give details)	
Bereavement – Section 7.1.3 of policy (please give details)	
Time off for public duties – Section 7.2.1 of policy (please give details)	
Interviews – Section 7.2.2 of policy (please give details)	
Jury service/Attendance at court as a witness – Section 7.2.3 of policy (please give details)	
Fertility Treatments – Section 7.2.4 of policy (please give details)	

Other reason (please specify)	
<b>Number of days requested</b>	
Total number of days requested:	
From (date):	
To (date):	
<b>Signed:</b>	<b>Date:</b>
<b><u>To be completed by Line Manager</u></b>	
Special leave granted (this episode):	Yes / No
Is the special leave paid or unpaid?:	Paid / Unpaid
Number of days granted:	
Number of days granted (in last 12 month period)	
From (date):	
To (date):	
If not granted, please give reason:	
<b>Signed:</b>	<b>Date:</b>
<b>Name:</b>	
<b>Position:</b>	

**MANAGERS MUST RECORD SPECIAL LEAVE VIA ESR**

### Legislation

The right to request Special Leave is covered by a raft of legislation including:

- Trade Union and Labour Relations (Consolidation) Act 1992
- Criminal Justice and Public Order Act 1994
- Employment Rights Act 1996
- Human Rights Act 1998
- Public Interest Disclosure Act 1998
- Public Interest Disclosure Act 2013
- Employment Relations Act 1999
- The Gender Recognition Act 2004
- Crime and Disorder Act 1998
- Employment Act (Dispute Resolution) Regulations 2004
- The Equality Act 2010

The Equality Act 2010 provides a cross-cutting legislative framework to protect the rights of individuals and advance equality of opportunity for all; to update, simplify and strengthen the previous legislation; and to deliver a simple, modern and accessible framework of discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.